

JUDGE SULLIVAN

08 CV 03356

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

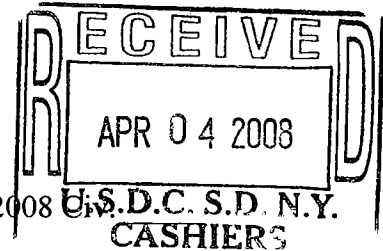
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SANDRA BUDANSINGH,

Plaintiff,

v.

BETH ISRAEL MEDICAL CENTER and LOCAL 1199,
SERVICE EMPLOYEES INTERNATIONAL UNION,

Defendants.
-----X



2008 U.S.D.C. S.D. N.Y.
**PETITION FOR
REMOVAL OF STATE
COURT ACTION**

ECF CASE

To the Judges of the United States District Court for the Southern District of New York, the Petition for Removal of State Court Defendants, 1199SEIU United Healthcare Workers East (misidentified in the Plaintiff's caption as "Local 1199, Service Employees International Union" and hereinafter referred to as the "Union"), shows that:

1. On the 4th day of December, 2007, State Court Plaintiff Sandra Budansingh ("Budansingh") commenced an action against the Union and Beth Israel Medical Center (referred to hereinafter as "BIMC") in the Supreme Court of the State Of New York, County of New York entitled "Sandra Budansingh against Beth Israel Medical Center and Local 1199, Service Employees International Union, Index No. 116215/07."

2. The Union was served with Budansingh's Summons and Notice on March 14, 2008, a copy of which is annexed hereto as Exhibit A.

3. On or about March 17, 2008, Richard Dorn, counsel for the Union, demanded a Complaint from Robert N. Felix, Esq., counsel for Plaintiff. To date, a Complaint has yet to be provided.

4. In this lawsuit, Plaintiff seeks to recover damages against Defendant Union that

she allegedly suffered as a result of the Union's failure to properly represent the plaintiff in an alleged violation of its duty of fair representation.

5. Defendant Union is a labor organization within the meaning of §2(5) of the Labor Management Relations Act ("LMRA"), 29 U.S.C. §152(5). Defendant Union is the certified collective bargaining representative of certain employees employed at Defendant BIMC, which is an employer in an industry affecting commerce within the meaning of Sections 2 and 301 of the LMRA, 29 U.S.C. §152 and 185.

6. Budansingh is a former employee of Defendant BIMC.

7. The terms and conditions of employment of Union-represented employees of Defendant BIMC, including plaintiff, are set forth in a collective bargaining agreement ("CBA") between Defendant Union and Defendant BIMC.

8. The question of Plaintiff's entitlement to relief on her claims turns solely on the interpretation of the parties' CBA under §301 of the Labor Management Relations Act, 29 U.S.C. §185 ("LMRA"). Therefore, because a determination of the parties' rights is governed by federal law, this action is removable to federal court. See Derrico v. Sheehan Emergency Hosp., 844 F.2d 22, 27-28 (2d Cir. 1988); Nordlicht v. New York Tel. Co., 700 F.2d 859, 862 (2d Cir. 1986). Although the Summons does not specifically refer to the LMRA, where "the only remedy available to plaintiff is federal, because of preemption or otherwise, and the state court must look to federal law in passing on the claim, the case is removable regardless of what is in the pleading." Traveler's Indem. Co. v. Sarkisian, 794 F.2d 754, 758 (2d Cir. 1986) (quoting 14A C. Wright, A. Miller & E. Cooper, Federal Practice and Procedure §3722 at 268-75 (2d ed. 1985)).

9. As Plaintiff's claim for relief necessarily arises under the laws of the United States, it may be removed to this Court under the provisions of 28 U.S.C. §1441(b) without

regard to the citizenship of the parties.

10. The petition is filed within thirty (30) days after Defendants received copies of the Summons and Notice, as required by 28 U.S.C. §1446(b).

11. Upon information and belief BIMC has not been served in the Supreme Court of the State Of New York, County of New York action entitled "Sandra Budansingh against Beth Israel Medical Center and Local 1199, Service Employees International Union, Index No. 116215/07."

12. This action was originally filed in a state court in this District. Therefore, venue is proper in this Court as provided by 28 U.S.C. §§ 1441(a) and 1446 (a).

13. By filing this Petition for Removal, Defendant Union does not waive any defenses that may be available to it.

14. No previous petition for removal of this action has been made.

WHEREFORE, Defendant Union prays that the above action now pending against it in the Supreme Court of the State of New York, County of New York be removed therefrom to this Court.

Dated: April 4, 2008
New York, New York

LEVY RATNER, P.C.

By: 

Richard Dorn (RD1076)
Attorneys for Defendant 1199SEIU
United Healthcare Workers East
80 Eighth Avenue, 8th Floor
New York, New York 10011
(212) 627-8100

Exhibit A

MAR-14-2008 15:50 From:

To: 212 627 8182

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----- X
SANDRA BUDANSINGH,

Plaintiff,

- against -

BETH ISRAEL MEDICAL CENTER and LOCAL 1199,
SERVICE EMPLOYEES INTERNATIONAL UNION,

Defendants.
----- X

SUMMONS WITH
NOTICE

Index No. 116215/07

PLAINTIFF DESIGNATES
NEW YORK COUNTY AS
THE PLACE OF TRIAL

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with the summons, to serve a notice of appearance on the Plaintiffs' Attorney within 20 days after the service of this summons, exclusive of the day of service, and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded hereinbelow.

PLEASE TAKE NOTICE that plaintiff brings suit against the Local 1199, Service Employees International Union ("Local 1199") for breach of the duty of fair representation, and against the Beth Israel Medical Center for breach of its collective bargaining agreement with Local 1199. Plaintiff seeks back pay, lost benefits, and damages in the amount of \$500,000 for emotional distress damages.

Dated: New York, New York
December 4, 2008

SANDRA BUDANSINGH
Plaintiff Pro Se

5/
1723 Victor Street
Bronx, New York 10462
Telephone: 718-829-0895

MAR-14-2008 15:50 From:

To: 212 627 8182

P.3/4

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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SANDRA BUDANSINGH

Plaintiff,

Index No. 116215/07


against.

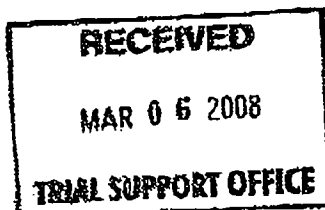
BETH ISRAEL MEDICAL CENTER and LOCAL 1199
SERVICE EMPLOYEES INTERNATIONAL UNION
Defendants.
-----X

**NOTICE OF
APPEARANCE**

ROBERT N. FELIX, an attorney admitted to practice before the Courts
in State of New York, hereby enters a Notice of Appearance on behalf of the
Plaintiff in this civil action.

Dated: New York, New York
March 7, 2008


Robert N. Felix, Esq.
Attorney for Plaintiff
11 Broadway, Suite 715
New York, New York 10004
Tel.: 212-747-1433
Fax: 212-943-1238
E-mail: felixlaw@yahoo.com



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P.4/4

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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SANDRA BUDANSINGH

Plaintiff,

Index No. 116215/07

against.

BETH ISRAEL MEDICAL CENTER and LOCAL 1199
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Defendants.
-----X

NOTICE OF APPEARANCE FOR PLAINTIFF

Robert N. Felix, Esq.
Attorney for Plaintiff
11 Broadway, Suite 715
New York, N.Y. 10004
212-747-1433

2008 Civ.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SANDRA BUDANSINGH,

Plaintiff,

-against-

BETH ISRAEL MEDICAL CENTER AND
LOCAL 1199, SERVICE EMPLOYEES
INTERNATIONAL UNION,

Defendant.

**PETITION FOR REMOVAL OF STATE
COURT ACTION**

LEVY RATNER, P.C.
Attorneys for Defendant
80 Eighth Avenue, 8th Floor
New York, N.Y. 10011-5126
(212) 627-8100

Due and timely service is hereby admitted.

New York, N.Y., 2008.

.....Esq.

Attorney for